

# **TOWN OF NEWINGTON**

## **BLIGHTED PREMISES CODE**

(Draft proposal dated 9/15/11)

### **§ 1. Title**

This chapter shall be known as the "Blighted Premises Code of the Town of Newington" ("this code") and the standards established by this code shall be referred to as and constitute the minimum property standards of the Town of Newington ("Town").

### **§ 2. Intent and Authority**

A. This code is intended to protect, preserve and promote public health, safety and welfare; to prevent and control the incidence of communicable disease; and to reduce environmental hazards to health, safety and welfare, insofar as they are affected by the maintenance of residential and non-residential structures, equipment and premises as provided by this code. This code is further intended to provide minimum standards governing the condition, occupancy and maintenance of occupied and unoccupied premises and establish reasonable safeguards for the health, safety and welfare of the occupants and users of said premises, the community and the general public. This code is intended to maintain and preserve the beauty of the neighborhoods and to allow for control of blighted premises.

B. This code shall establish minimum standards and responsibilities for the maintenance of all premises and delegates administrative responsibility and enforcement powers and creates enforcement procedures.

C. This code is adopted in accordance with the provisions of Connecticut General Statutes §7-148(c)(7)(H)(XV), § 7-148aa and 7-152c.

### **§ 3. Scope of Provisions**

A. Applicability.

1. This code shall apply uniformly to the maintenance, use and occupancy of all premises now in existence or hereafter constructed, maintained or modified and shall include:
  - a. Dwellings or dwelling units, including one-family and two-family dwellings and buildings with multiple-unit dwellings;
  - b. Lots, plots or parcels of land whether vacant or occupied;

- c. Buildings of non-dwelling use, including commercial properties and mixed use properties that may include one or more dwelling units;
- d. Accessory structures to any building;
- e. All apartments, boarding houses, group homes, lodging houses, rooming houses, tenement houses and unrelated family units.

#### § 4. Definitions

The following definitions apply to this chapter.

**Accessory structure** shall mean a structure, the use of which is customarily incidental and subordinate to that of principal building, structure or use on the same lot.

**Blighted premises** shall mean:

- A. Any building or structure, or any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or fence, where at least one of the following conditions exists:
  - 1. Town Manager or his/her designee determines that existing conditions pose a serious threat to the health, safety and welfare of town citizenry;
  - 2. It is not being maintained, as evidenced by the existence, to a significant degree, of one or more of the following conditions:
    - a. Missing, broken or boarded windows or doors;
    - b. Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors;
    - c. Exterior walls which contain holes, breaks, loose or rotting materials or which are not properly surface coated to prevent deterioration;
    - d. Foundation walls which contain open cracks and breaks;
    - e. Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust or other decay;
    - f. Chimneys and similar appurtenances which are in a state of disrepair;
    - g. Insect screens which contain tears or ragged edges;
    - h. Garbage or trash improperly stored or accumulated on the premises, or abandoned vehicles on the premises (unless the premises is a junkyard licensed by the State of Connecticut);
    - i. Overgrown grass or weeds at least one foot in height;
    - j. Vermin infestations;
    - k. In the case of a fence, broken or rotted boards or in an otherwise dilapidated condition; or

1. Any other exterior condition reflecting a level of maintenance which is not in keeping with community standards or which constitutes a blighting factor for adjacent property owners or occupiers or which is an element leading to the progressive deterioration of the neighborhood.
  3. It is attracting illegal activity as documented in Police Department records;
  4. It is a fire hazard as determined by the Fire Marshal or as documented in the Fire Department records; and/or
  5. It is a factor creating a substantial and unreasonable interference with the use and enjoyment of other premises within the surrounding area as documented by neighborhood complaints, police reports, the cancellation of insurance on proximate properties; or similar circumstances.
- B. Blighted premises shall not include any such building, structure or parcel of land located on any active farm.

**Citation Hearing Officer** shall mean an individual(s) appointed by the Town Manager to conduct hearings authorized by this chapter.

**Community standard** shall mean a judgment by a reasonable member of the community.

**Connecticut General Statutes** shall include any applicable amendments.

**Legal occupancy** shall mean occupancy in accordance with state building and fire codes, local zoning regulations, local housing ordinances and all other pertinent codes.

**Neighborhood** shall mean an area of the Town comprised of all premises or parcels of land, any part of which is within a radius of 1,000 feet of any part of another parcel or lot within the Town.

**Owner/occupier** shall mean any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property within the Town.

**Proximate property** shall mean any premises or parcel of land within one thousand (1,000) feet of a blighted premise.

**Vacant** shall mean a period of 60 days or longer during which a building or structure or part thereof is not legally occupied by human beings.

**Vacant parcel** shall mean a parcel of land with no structure(s) thereon.

## **§ 5. Signs, Awnings and Marquees**

- A. Signs. All permanent signs and billboards exposed to public view permitted by reason of other ordinances or laws shall be maintained in good repair. Any signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked or whose supporting members have deteriorated shall be removed forthwith or put into a good state of repair by the owner of the sign.
- B. Awnings and marquees. Any awning or marquee and its accompanying structural member which extends over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event that such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event that said awnings or marquees are made of cloth, plastic or of similar materials, said cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, ripping, tearing or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

## **§ 6. Removal of Weeds and Similar Vegetation**

- A. Every owner/occupier of properties upon which a building exists, or who is in possession of a vacant lot in an approved subdivision which fronts on a paved public road and to which a public water and/or public sewer lateral has been provided, shall cut, to a height of not more than twelve inches, all grass, weeds and similar vegetation not planted as a crop to be harvested or for ornamental purposes within 25 feet of the street line of any paved public highway and within 25 feet of any side yard property line adjoining a property on which a building or dwelling exists.
- B. Every owner/occupier of property shall keep his property free from vegetation of any type which, in the opinion of the Town Manager or his/her designee, is injurious to public health.
- C. Any violation of § 6A or 6B shall constitute a nuisance which may be abated by the town at the expense of the owner, lessor, lessee or any other person in possession or any one or more of them to whom the Town Manager or his/her designee has given not less than 10 days written notice of intention to abate such nuisance. Such expense may be collected by the town in a civil action against any one or more of the above-named persons responsible therefore.

## **§ 7. Solid Waste, Storage and Littering**

- A. Accumulation restricted. It shall be unlawful for an owner/occupier to allow solid waste to accumulate on premises in the town in such a manner as to create an offensive, unsightly or unsanitary condition.

- B. Storage requirements. In the event that property usage would result in the stacking or piling of materials, including equipment and appliances, even if wanted and useful, they must be so arranged as to prohibit the creation of a blighting factor to their neighbors. Furthermore, all useful, wanted material, including equipment and appliances, stored out of doors shall be stored in an orderly fashion and, to the extent reasonably feasible, shall be located in the rear yard.

## **§ 8. Blighted Premises - - Certification List**

- A. No owner/occupier of real property within the Town shall cause or allow blighted premises to be created nor shall any owner/occupier allow the continued existence of blighted premises.
- B. Blighted Premises Certification List
  - 1. Immediately following enactment of this ordinance, the Town Manager shall request that all Town department heads report any property of which they are aware which appears to be blighted, as defined by this ordinance. Such reports shall be submitted within thirty (30) days of the Town Manager's request.
  - 2. The Town Manager shall use this information and any other available information to complete a list of blighted properties

## **§ 9. Complaints - - Notice of Violation Warning Letter**

- A. Any individual, civic organization, municipal agency, or town employee affected by the action or inaction of an owner/occupier of property subject to the provisions of this ordinance, may file a complaint of violation of this ordinance with the Town Manager or his/her designee.
- B. The Town Manager or his/her designee, upon his or her determination whether there is a violation of this ordinance, shall forward a notice of violation warning letter to the owner/occupier at the time such determination has been made and shall include the property for consideration of inclusion on the Certification List. Such a notice of violation warning letter from the Town Manager or his/her designee shall be issued prior to issuing a citation. Such notice of violation warning letter shall include:
  - 1. A description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
  - 2. A due date, within a reasonable time, for the performance of any act required; and
  - 3. The amount of the fines, penalties, costs or fees that may be imposed for noncompliance.
- C. The owner/occupier may not contest a notice of violation warning letter before the Citation Hearing Officer.

- D. Delivery of a notice of violation warning letter or citation to the owner/occupier shall be by one or more of the following methods:
1. By personal delivery to the owner/occupier or by leaving the notice of violation warning letter or citation at the usual place of abode of the owner/occupier with a person of suitable age and discretion;
  2. By certified, registered or regular mail addressed to the owner/occupier at his last known address, with postage prepared thereon; or
  3. By posting and keeping posted for 24 hours a copy of the notice of violation warning letter or citation in placard form in a conspicuous place on the premises.

## **§ 10. Enforcement by Citation**

- A. If the corrective actions specified in the notice of violation warning letter are not taken the Town Manager or his/her designee shall issue a written citation to the owner/occupier.
- B. A citation shall be in writing and include:
1. A description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
  2. Detailed information regarding the contents of the notice of violation warning letter (which may be a copy of such notice of violation warning letter) and the failure of the owner/occupier to take the corrective actions specified therein;
  3. The amount of the fines, penalties, costs or fees due for noncompliance; and
  4. A statement that the owner/occupier may contest his liability and request a hearing before the Citation Hearing Officer by delivering in person or by mail written notice of objection within ten days of the date of receipt of the citation.
- C. Delivery of the citation shall be by the manner provided in § 9.

## **§ 11. Hearing**

- A. An owner/occupier may request a hearing after receiving a citation. Said owner/occupier must make his/her request for a hearing within ten (10) days of his/her receipt of the citation.
- B. The Citation Hearing Officer is designated to conduct hearings in accordance with Conn. Gen. Stat. Sec. 7-152c when requested by an owner/occupier who has been cited under this chapter.
- C. If the person who is sent notice pursuant to § 10 of this Code wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the assessed fines, penalties, costs or fees in person or by mail to the Town Manager. Such payment shall be inadmissible in any proceeding, civil or

criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of receipt of the citation shall be deemed to have admitted liability, and the Town Manager shall certify such person's failure to respond to the Citation Hearing Officer. The Citation Hearing Officer shall thereupon enter and affirm the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in Conn. Gen. Stat. Sec. 7-152c (f).

- D. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the Citation Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the town manager or his/her designee shall be filed and retained by the town, and shall be deemed to be a business record within the scope of Conn. Gen. Stat. Sec. 52-180 and evidence of the facts contained therein. The presence of the town manager and/or his/her designee shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated town official, other than the Citation Hearing Officer, may present evidence on behalf of the town. If such person fails to appear, the Citation Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The Citation Hearing Officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The Citation Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Citation Hearing Officer shall announce its decision at the end of the hearing. If Citation Hearing Officer determines that the person is not liable, the Citation Hearing Officer shall dismiss the matter and enter its determination in writing accordingly. If the Citation Hearing Officer determines that the person is liable for the violation, the Citation Hearing Officer shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the town.
- E. Pending the hearing before the Citation Hearing Officer, no further enforcement activity as contemplated by §§ 13 B and C shall occur until either a hearing is held and the Citation Hearing Officer assesses fines, penalties, costs and/or fees or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Officer assesses fines, penalties, costs and/or fees. This section shall not preclude

the accrual of fines during the period from the issuance of the citation until a hearing is held.

## **§ 12. Appointment of Citation Hearing Officers**

The town manager shall appoint three residents to serve as the Citation Hearing Officers pursuant to §182-5 of Newington Code of Ordinances.

## **§ 13. Penalties for Offenses - - Prejudgment Lien**

- A. The owner/occupier of premises where a violation of any of the provisions of this code shall exist or who shall maintain any building or premises in which such violations exist may:
  - 1. Be fined not more than \$100 for each violation. Each day that a violation exists after a citation as described in § 10 is given to the owner/occupier shall constitute a new violation and a fine may be imposed for each such violation; and/or
  - 2. Be required to abate the violation at the owner/occupier's expense.
  - 3. Be subject to the town's remediation of the blighted condition and assessing the costs of said remediation against the subject property by levying a lien on the subject real estate.
- B. A prejudgment lien on real estate may be imposed where the fine for violation of the blighted premises provisions of this ordinance is unpaid. Any unpaid fine imposed by a municipality pursuant to the provisions of an ordinance regulating blight, adopted pursuant to Conn. Gen. Stat. Sec. 7-148(c)(7)(H)(xv) shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens. Each such lien may be enforced in the same manner as property tax liens, including foreclosure of the real property.
- C. Where the town manager has determined that a blighted condition exists as defined by this ordinance, he may order the remediation of the blighted condition and assess the costs against the subject real estate in the form of lien which shall be recorded in the land records in the same manner as provided in § 13B.
- D. In addition to all other remedies and any fines imposed herein, the provisions of this code may be enforced by injunctive proceedings in the superior court. The town may recover from such owner/occupier or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the town in enforcing the provisions of this code.



#### **§ 14. Appeals - - Special Consideration**

- A. Any person aggrieved by any order, requirement or decision of the Citation Hearing Officer may take an appeal in accordance with Conn. Gen. Stat. § 7-152c(g).
- B. Notwithstanding anything herein to the contrary, special consideration may be given to individuals who are elderly or disabled and who demonstrate that the violation results from an inability to maintain an owner-occupied residence and no person with that ability resides therein. Such special consideration shall be limited to the reduction or elimination of fines and/or an agreement that the Town or its agents may perform the necessary work and place a lien against the premises for the cost thereof in accordance with the provisions of this code.

#### **§ 15. Severability**

In the event that any part or portion of this code is declared invalid for any reason, all the other provisions of this code shall remain in full force and effect.

#### **§ 16. Terms and Provisions**

- A. Where terms are specifically defined or the meaning of such terms are clearly indicated by their context, that meaning is to be used in the interpretation of this code.
- B. Where terms are not specifically defined and such terms are defined in the Charter and Municipal Code of the Town of Newington, such terms shall have the same meaning for the interpretation and enforcement of this chapter.
- C. Where terms are not specifically defined in this chapter, they shall have their ordinarily accepted meaning or such meaning as the context may imply.
- D. The provisions of this code shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Town of Newington.
- E. In any case where a provision of this code is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other provision of the Charter and Municipal Code of the Town of Newington or the State of Connecticut, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town of Newington shall prevail.

ATTORNEY REVIEW DATE: 9-15-11

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